

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION



MARILYN ENGLISH  
PETITIONER,

CIVIL ACTION NO. 2:22 cv 00540

V.

ELLEN HEINE, ET.AL.  
DEFENDANTS

MOTION FOR A STAY OF THE REMAND TO THE  
STATE COURT, AND FOR RECONSIDERATION  
OF THE OF THE ORDER REMANDING TO THE  
STATE COURT AND FOR ADDITIONAL TIME TO  
PROVIDE OBJECTIONS TO THE PROPOSED  
FINDINGS AND RECOMMENDATIONS AND  
ADDITIONAL TIME TO PRODUCE THE  
BRIEF IN SUPPORT OF THE MOTION FOR  
RECONSIDERATION

Please take notice that request is hereby made for a grant of leave for additional time to file Objections to the proposed findings and recommendations in the above captioned matter. This motion is filed as Motion for Reconsideration with a request for a stay of the remand of the case to the state court. These requests are made for the following reasons:

1. An Order remanding the case to the state court was signed on August 7, 2023 and mailed to the defendants via regular mail. The Order referenced the Proposed Findings and Recommendations by Judge Tinsley. The defendants received the August 7 Order, but we did not receive the Proposed Findings and Recommendations. Therefore there were no objections filed because we were not aware of the fact that any PF&R had been filed.
2. When we contacted the Court, they agreed to resend the PF&R, and we received the envelope with a stamp date of August 10, 2023.
3. The August 7 Order remanded the case to the magistrate court and sent notification to that court. The Order also stated the defendants would have to pay the petitioner's legal fees. The Order also stated that the PF&R was adopted in its entirety because there were no objections filed to the PF&R. No objections had been filed because we did not know that the PF&R had been filed because we never received it in the mail.
4. The defendants are prejudiced by not having an opportunity to answer the PF&R because we have to pay legal fees and we will not have a right of appeal.

5. We are requesting relief of a motion for reconsideration and request additional time to file the brief in support of the motion for reconsideration.
6. We respectfully request that the Court grant the relief that we seek in this motion.

CERTIFICATION: I certify that the above statements made by me are true to the best of my knowledge and understanding. If I have made any statements that I know to be false, I shall suffer punishment..

Date: 8/18/23  /s/Ellen Heine

 /s/Gregory Knorr



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